

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X	:
TOWAKI KOMATSU,	:
	:
Plaintiff,	:
	:
-v.-	:
THE CITY OF NEW YORK, et al.,	:
	:
Defendants.	:
-----X	:

ORDER

18 Civ. 3698 (LGS) (GWG)

GABRIEL W. GORENSTEIN, UNITED STATES MAGISTRATE JUDGE

The Court is in receipt of a number of letters from the parties (Docket ## 479-83) and rules as follows:

The request for reconsideration of Docket # 473 (Docket # 479) is denied.

With regard to defendant's request for the "502(d) Order" (Docket # 480), the Court is aware of plaintiff's lack of consent to any restrictions on his use of documents produced by the defendants (Docket # 483). Notwithstanding that lack of consent, the Court has already issued the Confidentiality Order (Docket # 474) and in paragraph 2 ordered that documents marked as Confidential may "not be publicly disclosed to any person or in any Court filing unless an Order of the Court has been obtained permitting such disclosure." The Order contains procedures for making objections once the documents have been produced. As for the defendants' request for an additional order regarding mistakenly produced material under Fed. R. Evid. 502(d), the defendants' proposed order is unnecessarily complicated and places an unwarranted burden on the receiving party to identify material subject to claims of protection. That being said, the Court finds it appropriate to have some procedure in effect in the event there is a mistaken production. Accordingly, the Court is separately issuing an order that contains more simplified procedures in the event a party produces protected material by mistake. To the extent defendants seek the additional provisions as reflected in their proposed order (Docket # 480-1), their request is denied.

With regard to Docket # 482, which requests reconsideration of Docket # 450, the request would be denied on the merits. But in any event, the request for reconsideration is necessarily moot given that plaintiff had a deadline of January 15, 2021, to comply with the obligations imposed by Docket # 450, and Docket # 482 is dated January 19, 2021, which is after that deadline. Thus, plaintiff had already been required to comply with Docket # 450 by the time Docket # 482 was written. Plaintiff belatedly sought to be relieved of the obligation to comply with the January 15 deadline (Docket # 481), but as the Court pointed out to plaintiff previously

(Docket # 466), an objection to an order -- whether through appeal, a motion for reconsideration or otherwise -- does not alter a party's obligation to comply with an order unless a court issues a stay. See, e.g., Vaigasi v. Solow Mgmt. Corp., 2016 WL 616386, at *21 (S.D.N.Y. Feb. 16, 2016) (“[I]n the absence of a stay, plaintiff’s appeal of that Order to [the District Judge] . . . did not relieve him of the obligation of complying with that Order.”) (citation omitted); Morisseau v. DLA Piper, 707 F. Supp. 2d 460, 461-62 (S.D.N.Y. 2010) (“[P]laintiff is obliged by law to comply with the [discovery order] unless and until it is stayed or reversed, neither of which has occurred.”) (footnote omitted). No court ever issued such a stay and a request for a stay does not act as a stay. If plaintiff has failed to comply with Docket # 450 (or any other court order), defendants have leave to apply for an appropriate sanction.

The defendants are directed to email a copy of this Order to plaintiff.

Dated: January 29, 2021
New York, New York

SO ORDERED.



GABRIEL W. CORENSTEIN
United States Magistrate Judge